

Serial No. 09/634,546
Group Art Unit 3621
Docket No: AM9-99-0239

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL BRIEF – 37 C.F.R § 1.192

U.S. Patent Application 09/634,546 entitled:

“System for Enhancing Buyers Performance in Electronic Commerce”

Real Party in Interest: International Business Machines Corporation

RELATED APPEALS AND INTERFERENCES:

An Appeal Brief was filed on 05/03/2004, which resulted in the withdrawal of the Final Rejection of 12/01/2003.

STATUS OF CLAIMS:

Claims 1, 3-16, 21 and 23-28 are pending.

Claims 1, 3-16, 21 and 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Togher et al. (USPA 2005/0228748) in view of Rosser (US 6,446,261).

Claims 1, 3-16, 21 and 23-28 are hereby appealed

STATUS OF AMENDMENTS:

No After-Final Amendment was filed after receipt of the Final Office Action of 07/06/2007.

SUMMARY OF CLAIMED SUBJECT MATTER:

(NOTE: All citations are made from the original specification, including the figures.)

The present invention's **claim 1** provides for a system for enhancing price discovery of products available in electronic commerce, wherein said system comprises: one or more automated surveyors (*figure 10, 1002, 1004, and 1006; and page 10, lines 6-8*) for surveying a plurality of: posted prices (*figure 4; figure 10, 1002; and page 7, lines 19-22, page 10, lines 6-8*), bid prices (*figure 1, 106*), posted quotes (*page 10, line 6-8; and figure 10, 1004*), quoted prices (*figure 5; figure 10, 1006; and page 8, lines 1-10*), and auctions (*figure 1, 108*); an anonymous buyer profile, said anonymous buyer profile used multiple times to develop historical

usage thereof, said historical usage representing a sophisticated buyer and included within at least one of said one or more automated surveyors, said sophisticated buyer used as the buyer by said automated surveyors (*page 5, lines 11-13; page 6, line 22-page 7, line 3; and page 8, lines 6-8, page 10, lines 13-16*), and wherein use of said anonymous buyer profile increases the probability of discovering the best prices in an electronic commerce environment which includes electronic price discrimination (*page 10, lines 13-16*).

In addition to the features of claim 1, the present invention's **claim 3** teaches a system for enhancing price discovery in electronic commerce, wherein said developed anonymous buyer profile is used to make actual purchases for a buyer using said system without disclosing the true identity of said buyer (*page 8, lines 13-16; and figure 6, 602*).

In addition to the features of claim 3, the present invention's **claim 4 teaches** a system for enhancing price discovery in electronic commerce, wherein when said system makes actual purchases for a buyer it further includes: receiving purchased at least one item at a site owned by system operator or a third party, and shipping at least item to said buyer (*figure 7; and page 8, line 19 - page 9, line 4*).

In addition to the features of claim 1, the present invention's **claim 5** teaches a system for enhancing price discovery in electronic commerce, wherein said surveying posted prices further comprises: collecting information about wholesale prices (*figure 3, 302*); generating reference points (*figure 3, 304*), and assessing from said reference points whether a posted price is reasonable (*figure 3, 306*).

In addition to the features of claim 1, the present invention's **claim 6** teaches a system for enhancing price discovery in electronic commerce, wherein said surveying posted quotes further comprises: scanning continuously commercial sites on a network (*figure 4, 402*); extracting posted quotes from said sites (*figure 4, 404*); maintaining a database of posted quotes (*figure 4, 406*), and pointing a buyer to vendors that post a best price based on said posted quotes for an item the buyer is interested in (*figure 4, 408*).

In addition to the features of claim 1, the present invention's **claim 7** teaches a system for enhancing price discovery in electronic commerce, wherein said included within at least one of said one or more automated surveyors comprises: choosing one of a plurality of available fictitious names (*figure 6, 604*); requesting price quotes on behalf of said chosen fictitious names (*figure 6, 606*); storing all received quotes (*figure 6, 608*), and maintaining statistics about said stored received quotes for reference to future buyers using said system (*figure 6, 610*).

In addition to the features of claim 1, the present invention's **claim 8** teaches a system for enhancing price discovery in electronic commerce, wherein said system further comprises: promoting competition among sellers by: generating messages to inform sellers of lower prices quoted by their competitors (*figure 8, 802*); advising said sellers to consider lowering prices (*figure 8, 804*), and maintaining a website, for public viewing, regarding ratings of sellers (*figure 8, 806*).

In addition to the features of claim 1, the present invention's **claim 9** teaches a system for enhancing price discovery in electronic commerce, wherein potential buyers receive messages of prices discovered by any of: e-mail, regular mail, or faxes (*figure 8, 802*).

In addition to the features of claim 1, the present invention's **claim 10** teaches a system for enhancing price discovery in electronic commerce, wherein said method of uncovering price structures further comprises: probing a commercial site with varying parameters associated with the price of at least one product (*figure 9, 902*); uncovering the underlying fee structure and how it varies with respect to different parameters (*figure 9, 904*), and suggesting to a potential buyer what parameters can be changed to save money (*figure 9, 906*).

In addition to the features of claim 1, the present invention's **claim 11** teaches a system for enhancing price discovery in electronic commerce, as per claim 1, wherein said network includes any of the: Internet, WWW, wireless web, LAN or WAN (*page 11, lines 1-7*).

The present invention's **claim 12** provides for a method for enhancing buyers performance in electronic commerce, wherein said method comprises: electronically presenting information to sellers located across a network about sophisticated buyers who are not willing to pay more than a minimum price, said sophisticated buyers developed by historical use of anonymous buyer profiles (*page 5, lines 11-13; page 6, line 22-page 7, line 3; and page 8, lines 6-8, page 10, lines 13-16*); using said sophisticated buyers to electronically gather information about prices on a network (*page 7, line 13- page 8, line 17*), and indicating to sellers when they are competitive, and influencing them to lower prices (*figure 8 and page 6-10*).

In addition to the features of claim 12, the present invention's **claim 13** teaches a method for enhancing buyers performance in electronic commerce, wherein said influencing them to lower prices comprises any of: generating messages to inform sellers of lower prices quoted by their competitors (*figure 8, 802*); advising said sellers to consider lowering prices (*figure 8, 804*), and maintaining a website, for public viewing, regarding ratings of sellers (*figure 8, 806*).

In addition to the features of claim 12, the present invention's **claim 14** teaches a method for enhancing buyers performance in electronic commerce, wherein said sophisticated buyers are used to anonymously make actual purchases for a buyer using said method (*figure 7 and page 8, line 20 – page 9, line 2*).

In addition to the features of claim 14, the present invention's **claim 15** teaches a method for enhancing buyers performance in electronic commerce, wherein when said method anonymously makes actual purchases for a buyer it further includes: receiving purchased item(s) at a site owned by system operator or a third party, and shipping item(s) to said buyer (*page 9, lines 3-5*).

In addition to the features of claim 12, the present invention's **claim 16** teaches a method for enhancing buyers performance in electronic commerce, according to claim 12, wherein said network includes one of the: Internet, WWW, wireless web, LAN or WAN (*page 11, lines 1-7*).

The present invention's **claim 21** provides for a method for enhancing buyers performance in electronic commerce comprising: surveying quoted prices located across a network, comprising the steps of: generating fictitious user names (*figure 5, 504; and page 8,*

lines 2-6); requesting price quotes using said fictitious name(s) (*figure 5, 506; and page 8, lines 2-6*); building reputation of said fictitious name(s) as sophisticated buyer(s) (*figure 5, 508; and page 8, lines 6-8*); continuously scanning commercial sites on a network using said sophisticated buyers to retrieve product price information, including at least quotes (*figure 5, 502; and page 8, lines 1-2*); generating statistical distribution of said quotes (*figure 5, 510; and page 8, lines 8-10*), and comparing a quote a known buyer receives to what has been observed in the system by the sophisticated buyer (*figure 5, 512; and page 8, lines 8-10*).

In addition to the features of claim 21, the present invention's **claim 23** teaches a method for enhancing buyers performance in electronic commerce, wherein said known buyer's anonymity is protected comprises the steps of: providing buyer the option of purchasing item(s) for him(*figure 7, 702; and page 8, line 20 - page 9, line 1*); purchasing the item(s) using one of many said available fictitious names (*figure 7, 704; and page 9, lines 1-2*); receiving item(s) at a site owned by system operator (*figure 7, 706; and page 8, lines 3-4*), and shipping item(s) to buyer (*figure 7, 708; and page 8, lines 3-4*).

In addition to the features of claim 21, the present invention's **claim 24** teaches a method for enhancing buyers performance in electronic commerce, further comprising promoting competition among sellers comprising the steps of: generating messages to inform sellers of lower prices quoted by their competitors (*figure 8, 802*); advising said sellers to consider lowering prices (*figure 8, 804*), and maintaining a website, for public viewing, regarding ratings of sellers (*figure 8, 806*).

In addition to the features of claim 24, the present invention's **claim 25** teaches a method for enhancing buyers performance in electronic commerce, wherein said messages generated include one of the following: e-mail, regular mail, or faxes (*figure 8, 802*).

In addition to the features of claim 21, the present invention's **claim 26** teaches a method for enhancing buyers performance in electronic commerce, further comprising: probing a commercial site with varying parameters associated with the price of at least one product (*figure 9, 902*); uncovering the underlying fee structure and how it varies with respect to different parameters (*figure 9, 904*), and suggesting to the buyer what parameters can be changed to save money (*figure 9, 906*).

The present invention's **claim 27** teaches an article of manufacture comprising a computer user medium having computer readable program code embodied therein which enhances buyers performance in electronic commerce comprising: computer readable code comprising one or more automated surveyors (*figure 10, 1002, 1004, and 1006; and page 10, lines 6-8*) for surveying any of: posted prices (*figure 4; figure 10, 1002; and page 7, lines 19-22, page 10, lines 6-8*), bid prices (*figure 1, 106*), posted quotes (*page 10, line 6-8; and figure 10, 1004*), quoted prices (*figure 5; figure 10, 1006; and page 8, lines 1-10*), and auctions (*figure 1, 108*); computer readable code comprising an anonymous buyer profile used multiple times to develop historical usage thereof, said historical usage representing a sophisticated buyer and included within at least one of said one or more automated surveyors, said sophisticated buyer used as the buyer by said automated surveyors (*page 5, lines 11-13; page 6, line 22-page 7, line 3; and page 8, lines 6-8, page 10, lines 13-16*), and wherein use of said anonymous buyer profile

increases the probability of discovering the best prices in an electronic commerce environment which includes electronic price discrimination (*page 10, lines 13-16*).

In addition to the features of claim 27, the present invention's **claim 28** teaches an article of manufacture comprising a computer user medium having computer readable program code embodied therein which enhances buyers performance in electronic commerce, according to claim 27, wherein code for said automated surveyors using said one or more anonymous buyer profiles further comprises computer code for: concealing a buyer's true identity (*figure 6, 602*); picking one of many available fictitious names (*figure 6, 604*); requesting price quotes on behalf of a buyer without revealing the buyer's true identity; storing all received quotes (*figure 6, 606*), and maintaining statistics about said stored received quotes for reference of future buyers (*figure 6, 610*).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL:

Claims 1, 3-16, 21 and 23-28 are hereby appealed.

1. Was proper M.P.E.P. procedures with respect to the issuance of numerous office actions during the pendency of Applicant's patent application?
2. Was proper consideration given to issues raised during the response of 02/02/2007?
3. Claims 1, 3-16, 21 and 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Togher et al. (USPA 2005/0228748) in view of Rosser (US 6,446,261).
With respect to claims 1, 3-16, 21 and 23-28, was an improper rejection made under 35 U.S. C. §103(a) using existing USPTO guidelines?

ARGUMENT:

1. Was proper M.P.E.P. procedures with respect to the issuance of numerous office actions during the pendency of Applicant's patent application?

Applicants would like bring to the Board's attention the numerous office actions that have ensued during the pendency of Applicants' application at the USPTO. For example, the Board's attention is respectfully directed to at least the following **EIGHT** Office Actions:

- I.** Non-Final Office Action of 06/09/2003;
- II.** Final Office Action of 12/01/2003, which resulted in the filing of a Notice of Appeal, followed by the filing of an Appeal Brief on 05/03/2004, which was subsequently successful in withdrawing the Final Rejection of 12/01/2003;
- III.** Non-Final Office Action of 11/19/2004;
- IV.** Non-Final Office Action of 06/27/2005;
- V.** Non-Final Office Action of 12/21/2005;
- VI.** Non-Final Office Action of 05/24/2006;
- VII.** Non-Final Office Action of 11/02/2006; and
- VIII.** Final Office Action of 07/06/2007.

As per MPEP 707.02, "**Application up for Third Action and 5-Year Applications,**" the "**Supervisory Patent Examiners should impress their Assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them**" and "**any application that**

has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution.”

A carefully study of the file history of Applicant’s application indicates that proper M.P.E.P. procedures were NOT followed to identify the best prior art and terminate prosecution as evidenced by the numerous office actions that were issued between the years of 2003 and 2007.

Therefore, Applicants respectfully submit that proper M.P.E.P. procedures were NOT followed with respect to the issuance of numerous office actions during the pendency of Applicant’s patent application.

2. Was proper consideration given to issues raised during the response of 02/02/2007?

In the response of 02/02/2007, Applicants pointed out to the Examiner that the **status of claim 21** is neither mentioned in the “Office Action Summary” section nor in the claim listing of the “Detailed Action” section of the Non-Final Office Action of 11/02/2006.

Specifically, the “Office Action Summary” of the Office Action of 11/02/2006 indicates that **“Claims 1, 3-16 and 23-38 is/are pending in the application”**, but **omits** to mention pending claim 21. Also, the “Detailed Action” section of the Office Action of 11/02/2006 also states that **“Claims 1, 3-16 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Togher et al (U.S. PG Pub No. 2005/0228748) in view**

of Rosser (U.S. Patent No. 6,446,261)”, which also **omits** to mention the status of pending claim 21.

The Examiner was also reminded in the response of 02/02/2007 that as per MPEP 707.07(i), “**each pending claim should be mentioned by number**, and its treatment or status given” (emphasis added).

However, the Examiner summarily ignored the Applicants’ remarks in the response of 02/02/2007, as **the same errors were repeated in the recent Final Office Action of 07/06/2007**.

Further, with respect to claim 21, it was pointed out previously that the Examiner in the previous Office Action of 11/02/2006 appears to have erroneously argued about “**modifying Togher to include Foth et [al.]**”. In the response of 02/02/2007, the Examiner was requested to clarify this ambiguous statement regarding why a reference is made to the **Foth reference (which was the subject of the previous office action)**, if by the Examiner’s own words, the previously submitted arguments with respect to Foth were found to be persuasive enough to warrant a withdrawal of the previous rejection.

Once again, the Examiner appears to have summarily ignored the Applicants’ remarks in the response of 02/02/2007, as **the same errors were repeated once again on page 7 of the recent Final Office Action of 07/06/2007**.

Further, with respect to claims 1 and 27, it was pointed out in the previous response of 02/02/2007 that the Examiner in the previous the Office Action of 11/02/2006 appears to first state that claims 1 and 27 are rejected as being unpatentable over **Togher in view of Rosser**, but then issues an ambiguous rejection by **contradicting** himself by arguing that the teachings of **Togher can be combined with the teachings of Foth** (from the previous office action). In the response of 02/02/2007, Applicants respectfully requested the Examiner to clarify this ambiguous rejection.

However, the Examiner once again summarily ignored the Applicants' remarks in the response of 02/02/2007, as **the same errors were repeated on pages 2-3 of the recent Final Office Action of 07/06/2007.**

Hence, Applicants respectfully assert that proper considerations were not given to Applicants' response of 02/02/2007 according to procedures laid out in the M.P.E.P.

3. With respect to claims 1, 3-16, 21 and 23-28, was an improper rejection made under 35 U.S. C. §103(a) using existing USPTO guidelines?

Claims 1, 3-16, 21 and 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Togher et al. (USPA 2005/0228748) in view of Rosser (US 6,446,261). To be properly rejected under 35 U.S.C. §103(a), the cited references must teach or suggest each and every feature of the rejected claims. Applicants respectfully assert that the combination of

Togher and Rosser fail to teach many of the features of the pending claims.

It should be noted that since there was some ambiguity with respect to the Examiner's insertion of the citation to "Foth" (which was the subject of a previous office action), Applicants have made an assumption that the references to Foth are merely references to the secondary reference, Rosser. As mentioned earlier, the Examiner was requested to clarify this ambiguity in the previous response, but has failed to do so.

Togher teaches an **electronic brokerage system** with credit management. The system of Togher allows traders to trade financial instruments by extending some, but not all, credit to one another by displaying the best market quote made by a trader at a trading floor and displaying the best dealable quote made by one or more credit bearing counterparties. The trader can then accept the best dealable quote displayed in the best dealable price area.

On page 2 of the office action of 05/24/2006, the Examiner cites the abstract and paragraphs 3, 6-9, 34, 39, and 43 of Togher as teaching all features of Applicants' independent claims 1 and 27, **except** for the feature of "**the anonymous buyer profile used multiple times to develop historical usage therefore, the historical usage representing a sophisticated buyer**" (emphasis added). Applicants disagree with this assertion as the Examiner's argument appears to be flawed.

As mentioned earlier, Togher's system merely provides for a proxy trading system that

facilitates identifying best bids and offers between parties (e.g., workstations WSA1a1, WSA1b1, etc. of FIG. 5), while maintaining the anonymity of parties involved. However, the Examiner's citation and the entire Togher reference fails to teach or suggest one or more *automated surveyors* for *surveying* a plurality of: posted prices, bid prices, posted quotes, quoted prices, and auctions. Specifically, the centralized bid distributions system merely facilitates the anonymous arbitration of bids and offers between existing parties such as WSA1a1 and WSA1b1. However, there is no teaching or suggestion for the centralized bid distribution system or a component of such a system to act as an *automated surveyor* for *surveying* posted prices, bid prices, posted quotes, quoted prices, and auctions.

Applicants, however, agree with the Examiner's statement on page 2 that the Togher reference fails to teach Applicants' feature of "the anonymous buyer profile used multiple times to develop historical usage therefore, the historical usage representing a sophisticated buyer." However, Applicants respectfully disagree with the Examiner that the Rosser reference remedies this shortcoming.

Rosser et al. teach a method of *anonymous targeted insertion of indicia into video broadcasts*. Individual televisions or other video reception devices are associated with set-top boxes that monitor the usage and viewing habits of the television set or other video reception devices. A viewer profile derived from data acquired from said monitoring is created wherein the viewer profile indicates certain characteristics about the viewer. This profile is transmitted to a centralized database, said centralized database being an intermediate link between the origin of

the video broadcast and the end viewer. **The insertable indicia described within the Rosser are advertisements that are used to target various demographic profiles.**

Specifically, the Examiner cites the abstract and column 4, lines 15-48 and column 8, lines 39-55 of Rosser as teaching Applicants' **"anonymous buyer profile used multiple times to develop historical usage thereof, the historical usage representing a sophisticated buyer."**

Column 4, lines 15-48 is reproduced verbatim below:

"In one usage of the invention, a broadcaster would establish a continuous survey of a few thousand households of known profile factors for each significant broadcast region. These surveys would be used to generate cross-correlations between viewer usage profiles and viewer profile factors. Advertisers wishing to have their advertising targeted to viewers with a particular sub-set of profile factors would be able to use the cross-correlations to translate their viewer profile requests into a viewer usage profiles request. *The broadcaster would then send the required viewer usage profiles as part of the broadcast in for instance, the vertical blanking interval (VBI) along with the advertisers insertion also in the VBI*, over a number of fields, if necessary. At the viewer's set-top, the device would see which insertion was linked to the local viewer usage profile, and insert appropriately.

For instance, on a widely watched event, such as the super bowl, a car company may chose to present different models, depending on the demographic or psychographic profile of the family, based on their viewing habits. As a simple example, *a family with a viewing profile* that includes significant viewing of young children's programs is assumed to have children and may be shown advertisements for a mini-van, while *a family with a profile* that includes significant viewing of programs for out-door sports may be shown an advertisement for a sports utility vehicle made by the same

company.

There could also be a "write-in" dimension to the viewing providing the viewer the opportunity to select extra specific profile factors. For instance, *viewers who are looking for a car may add this fact to their viewer profile in order to deliberately solicit advertisements for cars.* It may also be possible to specify price ranges and other relevant parameters.” (emphasis added)

As can be seen, Column 4, lines 15-48 of Rosser merely teaches how **a broadcaster can use viewer usage profiles as part of the broadcast in for instance, the vertical blanking interval (VBI), along with the advertisers insertion also in the VBI.**

In the above citation Rosser clarifies this via an example, where, on a widely watched event, such as the super bowl, a car company may chose to present different models, depending on the demographic or psychographic profile of the family, based on their viewing habits. In this example, a **family with a viewing profile** that includes significant viewing of young children's programs is assumed to have children and may be shown advertisements for a mini-van, while a **family with a profile** that includes significant viewing of programs for out-door sports may be shown an advertisement for a sports utility vehicle made by the same company.

Rosser’s column 8, lines 39-55 is reproduced verbatim below:

“In the preferred embodiment, the interpretation of the *viewer usage profiles* i.e. the cross--correlation between viewer usage profile and viewer profile factors which we have termed the viewer usage profile key would be established using well known survey sampling techniques, and practiced by such companies as the well known Gallup or Harris organizations. The viewer usage profile key could be generated by having a

sample of house holds, of known profile factors, who have their viewing habits automatically monitored by a central system, which may be a computer linked into the viewers set top device by a modem and telephone link, or other appropriate technology. By choosing the sample households scientifically so that each household in the television or video viewing population has a known chance of selection, the results obtained from the sampling can be reliably projected the television or video viewing public.” (emphasis added)

As can be seen, Rosser’s column 8, lines 39-55 merely teaches viewer profiles that are maintained and make no mention of an **anonymous buyer profile**.

The Examiner’s citation by repeatedly referring to a **family with a profile** contradicts the Examiner’s conclusion that the Rosser reference teaches an “**anonymous buyer profile**” that is **used multiple times to develop historical usage therefore, the historical usage representing a sophisticated buyer**.

Applicants respectfully direct the Examiner’s attention to column 3, lines 8-12 which specifically states that

“the proposed targeting mechanism of this, application, **Anonymous Target Profiling**, effectively targets viewers profile factors without making them publicly available in a way that ensures profile factors are close to 100% current” (emphasis added).

It can be seen from the above citation that the “**Target Profiling**” is what remains

anonymous in Rosser **NOT** a “**buver profile**” (as the Examiner asserts). Applicants respectfully assert that an “anonymous buyer profile” is **NOT** the same as Rosser’s “anonymous target profiling”.

Hence, at least for the reasons set forth above, the combination of Togher and Rosser fails to provide for many of the features of independent claims 1 and 27.

With respect to independent claim 12, Applicants agree with the Examiner’s statement on page 5 of the recent office action that “Togher et al. fail to teach the sophisticated buyers developed by historical use of anonymous buyer profiles” as provided in claim 12. However, Applicants respectfully disagree with the Examiner’s contention that Rosser teaches a method of electronically presenting information to sellers about “**the sophisticated buyers developed by historical use of anonymous buyer profiles.**”

The Examiner again references Rosser’s column 4, lines 15-48 and column 8, lines 39-55. As noted above, the Examiner’s citation merely discloses a **family with a profile** and makes NO hint or suggestion for the **historical use of anonymous buyer profiles.** The Examiner has repeatedly been asked, and has repeatedly failed, to show where in the Rosser reference the step of **sophisticated buyers being developed by historical use of anonymous buyer profiles.** Absent such a showing, it is respectfully submitted that the individual references themselves or the combination of the Togher and Rosser references anticipate or render obvious Applicants claim 12.

Hence, at least for the reasons set forth above, the combination of Togher and Rosser fails to provide for many of the features of independent claim 12.

With respect to independent claim 21, Applicants agree with the statement on pages 7-8 of the recent office action that “Togher et al. fail to teach a system of generating fictitious user names.” However, Applicants disagree with the Examiner’s statement that Rosser “**teach a system of generating fictitious user names.**” The Examiner once again relies on Rosser’s column 4, lines 15-48 and column 8, lines 39-55 of Rosser as providing the features of claim 21. As mentioned above, the Examiner’s citations merely teach a viewer profile and makes no mention of the **generation of fictitious user names.**

Again, in the previous response, Applicants respectfully requested the Examiner to **specifically** show where in the Rosser reference such steps are shown for: (1) **generating fictitious user names;** (2) **requesting price quotes using said fictitious name(s);** (3) **building reputation of said fictitious name(s) as sophisticated buyer(s);** (4) **continuously scanning commercial sites on a network using said sophisticated buyers to retrieve product price information, including at least quotes;** (5) **generating statistical distribution of said quotes,** and (6) **comparing a quote a known buyer receives to what has been observed in the system by the sophisticated buyer.** The Examiner has once again ignored Applicants’ request and failed to provide additional detail on where each of these features can be found. Applicants respectfully note that they cannot respond to a rejection that does not specifically identify what

the Examiner relies on with each of the above-mentioned features.

Hence, at least for the reasons set forth above, the combination of Togher and Rosser fails to provide for many of the features of independent claim 21.

Based on the arguments presented above, Applicants respectfully contend that the combination of the combination of Togher and Rosser references fail to render obvious many of the limitations of independent claims 1, 12, 21, and 27. Hence, at least for the reasons set forth above, Applicants respectfully contend that an improper 35 U.S.C. §103(a) rejection was issued with regards to independent claims 1, 12, 21, and 27. Also, at least for the same reasons set forth above with respect to the independent claims, Applicants respectfully contend that an improper 35 U.S.C. §103(a) rejection was issued with regards to dependent claims 3-11, 13-16, 23-26 and 28.

SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicant's presently claimed invention, nor render them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this Appeal Brief has been timely filed within the set period of response, no fee for extension of time is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided, including extension of time, to Deposit Account No. 09-0441.

Respectfully submitted by
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Claims Appendix:

1. (Previously Presented) A system for enhancing price discovery of products available in electronic commerce, wherein said system comprises:

one or more automated surveyors for surveying a plurality of: posted prices, bid prices, posted quotes, quoted prices, and auctions;

an anonymous buyer profile, said anonymous buyer profile used multiple times to develop historical usage thereof, said historical usage representing a sophisticated buyer and included within at least one of said one or more automated surveyors, said sophisticated buyer used as the buyer by said automated surveyors, and

wherein use of said anonymous buyer profile increases the probability of discovering the best prices in an electronic commerce environment which includes electronic price discrimination.

2. (Cancelled)

3. (Previously Presented) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said developed anonymous buyer profile is used to make actual purchases for a buyer using said system without disclosing the true identity of said buyer.

4. (Original) A system for enhancing price discovery in electronic commerce, as per claim 3, wherein when said system makes actual purchases for a buyer it further includes: receiving purchased at least one item at a site owned by system operator or a third party, and

shipping at least item to said buyer.

5. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said surveying posted prices further comprises:

- collecting information about wholesale prices;
- generating reference points, and
- assessing from said reference points whether a posted price is reasonable.

6. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said surveying posted quotes further comprises:

- scanning continuously commercial sites on a network;
- extracting posted quotes from said sites;
- maintaining a database of posted quotes, and
- pointing a buyer to vendors that post a best price based on said posted quotes for an item the buyer is interested in.

7. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said

included within at least one of said one or more automated surveyors comprises:

- choosing one of a plurality of available fictitious names;
- requesting price quotes on behalf of said chosen fictitious names;
- storing all received quotes, and
- maintaining statistics about said stored received quotes for reference to future buyers using said system.

8. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said system further comprises:

promoting competition among sellers by:

generating messages to inform sellers of lower prices quoted by their competitors;

advising said sellers to consider lowering prices, and

maintaining a website, for public viewing, regarding ratings of sellers.

9. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein potential buyers receive messages of prices discovered by any of: e-mail, regular mail, or faxes.

10. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said method of uncovering price structures further comprises:

probing a commercial site with varying parameters associated with the price of at least one product;

uncovering the underlying fee structure and how it varies with respect to different parameters, and

suggesting to a potential buyer what parameters can be changed to save money.

11. (Original) A system for enhancing price discovery in electronic commerce, as per claim 1, wherein said network includes any of the: Internet, WWW, wireless web, LAN or WAN.

12. (Previously Presented) A method for enhancing buyers performance in electronic commerce, wherein said method comprises:

electronically presenting information to sellers located across a network about sophisticated buyers who are not willing to pay more than a minimum price, said sophisticated buyers developed by historical use of anonymous buyer profiles;

using said sophisticated buyers to electronically gather information about prices on a network, and

indicating to sellers when they are competitive, and influencing them to lower prices.

13. (Original) A method for enhancing buyers performance in electronic commerce, as per claim 12, wherein said influencing them to lower prices comprises any of:

generating messages to inform sellers of lower prices quoted by their competitors;

advising said sellers to consider lowering prices, and

maintaining a website, for public viewing, regarding ratings of sellers.

14. (Original) A method for enhancing buyers performance in electronic commerce, as per claim 12, wherein said sophisticated buyers are used to anonymously make actual purchases for a buyer using said method.

15. (Original) A method for enhancing buyers performance in electronic commerce, as per claim 14, wherein when said method anonymously makes actual purchases for a buyer it further includes: receiving purchased item(s) at a site owned by system operator or a third party, and

shipping item(s) to said buyer.

16. (Original) A method for enhancing buyers performance in electronic commerce, according to claim 12, wherein said network includes one of the: Internet, WWW, wireless web, LAN or WAN.

17 – 20 (Cancelled)

21. (Previously Presented) A method for enhancing buyers performance in electronic commerce comprising:

surveying quoted prices located across a network, comprising the steps of:

generating fictitious user names;

requesting price quotes using said fictitious name(s);

building reputation of said fictitious name(s) as sophisticated buyer(s);

continuously scanning commercial sites on a network using said sophisticated buyers to retrieve product price information, including at least quotes;

generating statistical distribution of said quotes, and

comparing a quote a known buyer receives to what has been observed in the system by the sophisticated buyer.

22. (Cancelled)

23. (Previously Presented) A method for enhancing buyers performance in electronic commerce, according to claim 21, wherein said known buyer's anonymity is protected comprises the steps of:

providing buyer the option of purchasing item(s) for him;
purchasing the item(s) using one of many said available fictitious names;
receiving item(s) at a site owned by system operator, and
shipping item(s) to buyer.

24. (Previously Presented) A method for enhancing buyers performance in electronic commerce, according to claim 21, further comprising promoting competition among sellers comprising the steps of:

generating messages to inform sellers of lower prices quoted by their competitors;
advising said sellers to consider lowering prices, and
maintaining a website, for public viewing, regarding ratings of sellers.

25. (Original) A method for enhancing buyers performance in electronic commerce, according to claim 24, wherein said messages generated include one of the following: e-mail, regular mail, or faxes.

26. (Previously Presented) A method for enhancing buyers performance in electronic commerce, according to claim 21, further comprising a method of uncovering price structures by:

probing a commercial site with varying parameters associated with the price of at least one product;

uncovering the underlying fee structure and how it varies with respect to different parameters, and

suggesting to the buyer what parameters can be changed to save money.

27. (Previously Presented) An article of manufacture comprising a computer user medium having computer readable program code embodied therein which enhances buyers performance in electronic commerce, said system comprising:

computer readable code comprising one or more automated surveyors for surveying any of: posted prices, bid prices, posted quotes, quoted prices, and auctions;

computer readable code comprising an anonymous buyer profile used multiple times to develop historical usage thereof, said historical usage representing a sophisticated buyer and included within at least one of said one or more automated surveyors, said sophisticated buyer used as the buyer by said automated surveyors, and

wherein use of said anonymous buyer profile increases the probability of discovering the best prices in an electronic commerce environment which includes electronic price discrimination.

28. (Previously Presented) An article of manufacture comprising a computer user medium having computer readable program code embodied therein which enhances buyers performance in electronic commerce, according to claim 27, wherein code for said automated surveyors using said one or more anonymous buyer profiles further comprises computer code for:

concealing a buyer's true identity;

picking one of many available fictitious names;

requesting price quotes on behalf of a buyer without revealing the buyer's true identity;

storing all received quotes, and

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maintaining statistics about said stored received quotes for reference of future buyers.

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Evidence Appendix

None

Related Proceedings Appendix

An Appeal Brief was filed on 05/03/2004 previously with respect to the same case, which resulted in the withdrawal of the Final Rejection of 12/01/2003 by the Examiner.